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In re Application of	DECISION ON
OGATA et al	
Application No.: 10/524,621	
PCT No.: PCT/US2003/010474	
Int. Filing Date: 19 August 2003	PETITION UNDER
Priority Date: 20 August 2002	
Attorney Docket No.: F-8591	
For: ANTI-ALUMINA-BUILDUP REFRactories	
FOR CASTING NOZZLES	37 CFR 1.181

This decision is in response to the "RENEWAL PETITION UNDER 35 USC 1.181 TO REVIVE AN UNAVOIDABLY ABANDONED APPLICATION THROUGH NO FAULT OF THE APPLICANT," filed on 07 August 2008. Applicants have submitted, *inter alia*, a copy of a 17 March 2005 PTO stamped itemized postcard receipt for application 10/524,621. The itemized postcard lists, *inter alia*, the following item: Declaration and Power of Attorney.

### **BACKGROUND**

In a decision from this Office on 09 June 2008, the decision stated that the postcard filed with the petition on 15 May 2008 listed application 10/524,620 rather than 10/564,621. Thus, the petition was dismissed.

On 07 August 2008, filed the current petition with a stamped return postcard for application 10/524,621, but no copy of the declaration filed on 17 March 2005 was submitted.

### **DISCUSSION**

Applicants' present petition accompanied by a copy of the following document:

- (1) Itemized USPTO stamped postcard dated 17 March 2005

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard, however, is not accepted at this time as *prima facie* that a Declaration was deposited with the U.S. Patent and Trademark Office on 17 March 2005 because petitioner has not provided a copy of the declaration filed on 17 March 2005 with this petition and has not included the requisite statement that applicants submit a true copy of the declaration filed on 17 March 2005. Although, petitioner states on page 2, paragraph 3 that it is not believed necessary to file the Declaration nor pay the Petition at this time, petitioner has to file a copy of declaration with the petition and state this copy is a true copy of the declaration filed on 17 March 2005. The proper statement by petitioner and a copy of declaration with the petition serves a *prima facie* that this copy is a true copy of 17 March 2005 submission.

For the above reasons, it would not be appropriate to grant the petition under 37 CFR 1.181 at this time.

### DECISION

The petition under 37 CFR 1.181 is **DISMISSED**, without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181". Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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